IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.14937 of 2006**

DATE OF DECISION: October 30, 2006

ASSA RAM AND OTHERS ...PETITIONERS

VERSUS

STATE OF HARYANA AND ANOTHER ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MRS. JUSTICE NIRMAL YADAV.

PRESENT: MR. V.K.JINDAL, ADVOCATE FOR THE PETITIONERS.

ASHUTOSH MOHUNTA, J. (ORAL)

Being aggrieved against the orders dated 3.11.2004 (Annexure P1) passed by the Collector, Karnal, and 17.3.2006 (Annexure P2) passed by the Commissioner, Rohtak Division, whereby the ejectment of the petitioners has been ordered from the houses in dispute, along with penalty/damages under Section 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972, the petitioners have filed the present petition under Articles 226/227 of the Constitution of India praying for issuance of a writ in the nature of certiorari quashing the said impugned orders.

It has been contended by the learned counsel for the petitioners that the petitioners have been in occupation of the houses in dispute for the last more than 50 years and by way of adverse possession, they have become owners thereof. It has further been contended on behalf of the petitioners that the houses in question were never allotted to them by the

Zila Parishad and also that the Zila Parishad was not the owner of the property in dispute. Counsel for the petitioners further contended that the petitioners have been paying the house tax and the electricity meters installed in the houses in question are also in their names.

We have heard the learned counsel for the petitioners and examined the case file meticulously.

Undisputedly, on the directions of the Commissioner, before whom the petitioners had earlier went in appeal against the order of their ejectment, the Collector, Karnal got conducted the Nishandehi regarding the land of disputed Khasra No.5096/2 from the Tehsildar, Karnal. As per the report submitted by the Tehsildar, Khasra No.5096/2 of Karnal town is owned by Haryana Government. Vide decision dated 21.4.1951 (Ex.A-115) the Assistant Custodian (General) Evacuee Property, Karnal, had declared the District Board, Karnal, as owner of Khasra No.5096 measuring 2 Bighas 14 Biswas. The Zila Parishad having stepped into the shoes of the District Board, had therefore become owner of the land in dispute. Moreover, as per Jamabandi for the year 1994-95, Khasra No.5096/2 (over which the houses in dispute have been constructed) is clearly owned by the Zila Parishad as in the column of 'ownership' the land is recorded as 'Shamlat Kasba' and in the column of 'cultivation', entry of 'Makbuza Haryana Sarkar Marfat AGA Tehat Zila Parishand' has been shown. It has also come on record that as per 'Mark-K' (referred to by the Collector) some of the houses in dispute were rented out as back as in the year 1963 and the appellants are now in illegal possession thereof as these houses had never been validly allotted to them. They have illegally trespassed into these houses. Further, as per receipts Exhibits A-2 to A-114 house rent had been paid by them. After the

dissolution of the Zila Parishad, they stopped paying the rent and started claiming themselves as owners of the houses in dispute by adverse possession. Merely, because the electricity meters installed in the houses in dispute are in their names or that they are being the house tax to the Municipal Council, Karnal, they cannot become the owners of the said houses in the absence of any other document conferring the title of ownership on them.

In view of the above, we do not find any infirmity in the impugned orders. This petition is dismissed in limine being without any merit.

(ASHUTOSH MOHUNTA)
JUDGE

October 30, 2006
Gulati

(NIRMAL YADAV)
JUDGE